

THE JAMES BAY TREATY

TREATY No. 9

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THE LEGISLATIVE ASSEMBLY OF ONTARIO



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The James Bay Treaty.

TREATY No. 9.

Articles of a Treaty made and concluded at the several dates mentioned therein, in the year of Our Lord one thousand nine hundred and five, between His Most Gracious Majesty the King of Great Britain and Ireland, by His Commissioners, Duncan Campbell Scott, of Ottawa, Ontario, Esquire, and Samuel Stewart, of Ottawa, Ontario, Esquire; and Daniel George Mac-Martin, of Perth, Ontario, Esquire, representing the Province of Ontario, of the one part; and the Ojibeway, Cree and other Indians, inhabitants of the territory within the limits hereinafter defined and described, by their Chiefs and Headmen hereunto subscribed, of the other part:—

Whereas, the Indians inhabiting the territory hereinafter defined have been convened to meet a Commission representing His Majesty's Government of the Dominion of Canada at certain places in the said territory in this present year of 1905, to deliberate upon certain matters of interest to His Most Gracious Majesty, of the one part, and the said Indians of the other.

And whereas, the said Indians have been notified and informed by His Majesty's said Commission that it is His desire to open for settlement, immigration, trade, travel, mining, lumbering, and such other purposes as to His Majesty may seem meet, a tract of country, bounded and described as hereinafter mentioned, and to obtain the consent thereto of His Indian subjects inhabiting the said tract, and to make a treaty and arrange with them, so that there may be peace and good will between them and His Majesty's other subjects, and that His Indian people may know and be assured of what allowances they are to count upon and receive from His Majesty's bounty and benevolence.

And whereas, the Indians of the said tract, duly convened in council at the respective points named hereunder, and being requested by His Majesty's Commissioners to name certain Chiefs and Headmen who should be authorized on their behalf to conduct such negotiations and sign any treaty to be founded thereon, and to become responsible to His Majesty for the faithful performance by their respective bands of such obligations as shall be assumed by them, the said Indians have therefore acknowledged for that purpose the several Chiefs and Headmen who have subscribed hereto.

And whereas, the said Commissioners have proceeded to negotiate a treaty with Ojibeway, Cree and other Indians, inhabiting the district hereinafter defined and described, and the same has been agreed upon, and concluded by the respective bands at the dates mentioned hereunder, the said Indians do hereby cede, release, surrender and yield up to the Government of the Dominion of Canada, for His Majesty the King and His successors forever, all their rights, titles and privileges whatsoever, to the lands included within the following limits, that is to say: That portion or tract of land lying and being in the Province of Ontario, bounded on the south by the height of land and the northern boundaries of the territory ceded by the Robinson-Superior Treaty of 1850, and the Robinson-Huron Treaty of 1850, and bounded on the east and north by the boundaries of the said province of Ontario as defined by law, and on the west by a part of the eastern boundary of the territory ceded by the Northwest Angle Treaty No. 3; the said land containing an area of ninety thousand square miles, more or less.

And also, the said Indian rights, titles and privileges whatsoever to all other lands wherever situated in Ontario, Quebec, Manitoba, the District of Keewatin, or in any other portion of the Dominion of Canada.

To have and to hold the same to His Majesty the King and His successors forever.

And His Majesty the King hereby agrees with the said Indians that they shall have right to pursue their usual vocations of hunting, trapping and fishing throughout the tract surrendered as heretofore described, subject to such regulations as may from time to time be made by the Government of the country, acting under the authority of His Majesty, and saving and excepting such tracts as may be required or taken up from time to time for settlement, mining, lumbering, trading or other purposes.

And His Majesty the King hereby agrees and undertakes to lay aside reserves for each band, the same not to exceed in all one square mile for each family of five, or in that proportion for larger and smaller families; and the location of the said reserves having been arranged between His Majesty's Commissioners and the Chiefs and Headmen, as described in the schedule of reserves hereto attached, the boundaries thereof to be hereafter surveyed and defined, the said reserves when confirmed shall be held and administered by His Majesty for the benefit of the Indians free of all claims, liens, or trusts by Ontario.

Provided, however, that His Majesty reserves the right to deal with any settlers within the bounds of any land reserved for any band as He may see fit; and also that the aforesaid reserves of land, or any interest therein, may be sold or otherwise disposed of by His Majesty's Government for the use and benefit of the said Indians entitled thereto, with their consent first had and obtained; but in no wise shall the said Indians, or any of them, be entitled to sell or otherwise alienate any of the lands allotted to them as reserves.

It is further agreed between His said Majesty and His Indian subjects that such portions of the reserves and lands above indicated as may at any time be required for public works, buildings, railways, or roads of whatsoever nature may be appropriated for that purpose by His Majesty's Government of the Dominion of Canada, due compensation, being made to the Indians for the value of any improvements thereon, and an equivalent in land, money or other consideration for the area of the reserve so appropriated.

And with a view to show the satisfaction of His Majesty with the behaviour and good conduct of His Indians, and in extinguishment of all their past claims, He hereby, through His Commissioners, agrees to make each Indian a present of eight dollars in cash.

His Majesty also agrees that next year, and annually afterwards forever, He will cause to be paid to the said Indians in cash, at suitable places and dates, of which the said Indians shall be duly notified, four dollars, the same, unless there be some exceptional reason, to be paid only to the heads of families for those belonging thereto.

Further, His Majesty agrees that each Chief, after signing the treaty, shall receive a suitable flag and a copy of this treaty to be for the use of his band.

Further, His Majesty agrees to pay such salaries of teachers to instruct the children of said Indians, and also to provide such school buildings and educational equipment as may seem advisable to His Majesty's Government of Canada.

And the undersigned Ojibeway, Cree and other Chiefs and Headmen, on their own behalf and on behalf of all the Indians whom they represent, do

hereby solemnly promise and engage to strictly observe this treaty, and also to conduct and behave themselves as good and loyal subjects of His Majesty the King.

They promise and engage that they will, in all respects, obey and abide by the law; that they will maintain peace between each other and between themselves and other tribes of Indians, and between themselves and others of His Majesty's subjects, whether Indians, half-breeds or whites, this year inhabiting and hereafter to inhabit any part of the said ceded territory; and that they will not molest the person or property of any inhabitant of such ceded tract, or of any other district or country or interfere with or trouble any person passing or travelling through the said tract, or any part thereof, and that they will assist the officers of His Majesty in bringing to justice and punishment any Indian offending against the stipulations of this treaty, or infringing the law in force in the country so ceded.

And it is further understood that this treaty is made and entered into subject to an agreement dated the third day of July, nineteen hundred and five, between the Dominion of Canada and Province of Ontario, which is hereto attached.

In witness whereof, His Majesty's said Commissioners and the said Chiefs and Headmen have hereunto set their hands at the places and times set forth in the year herein first above written.

Signed at Osnaburgh on the twelfth day of July, 1905, by His Majesty's Commissioners and the Chiefs and Headmen in the presence of the undersigned witnesses, after having been first interpreted and explained.

Witnesses:

THOMAS CLOUSTON RAE, C.T.,
Hudson's Bay Co.

ALEX. GEORGE MEINDL, M.D.

JABEZ WILLIAMS, Clerk, H.B. Co.

DUNCAN CAMPBELL SCOTT.

SAMUEL STEWART.

DANIEL GEORGE MACMARTIN.

his

MISSABAY, x
mark

his

THOMAS x MISSABAY.
mark

his

GEORGE x WAHWOASHKUNG.
mark

his

KWIASH, x
mark
his

NAHOKEESIC, x
mark
his

OOMBASH, x
mark
his

DAVID x SKUNK.
mark
his

JOHN x SKUNK.
mark
his

THOMAS x PANACHEESE
mark

Signed at Fort Hope on the nineteenth day of July, 1905, by His Majesty's Commisisoners and the Chiefs and Headmen in the presence of the undersigned witnesses, after having been first interpreted and explained.

Witnesses :

F. X. FAFARD, O.M.I.

THOMAS CLOUSTON RAE.

ALEX. GEORGE MEINDL, M.D.

CHAS. H. M. GORDON, H.B. Co.

DUNCAN CAMPBELL SCOTT.

SAMUEL STEWART.

DANIEL GEORGE MACMARTIN.

his

YESNO, x

mark

his

GEORGE x NAMAY.

mark

his

WENANGASIE x DRAKE.

mark

his

GEORGE x QUISESS.

mark

his

KATCHANG, x

mark

his

MOONIAS, x

mark

his

JOE x GOODWIN.

mark

his

ABRAHAM x ATLOOKAN.

mark

his

HARRY x OOSKINEEGISH.

mark

his

NOAH x NESHINAPAIS.

mark

his

JOHN A. x ASHPANAQUESHKUM.

mark

his

JACOB x RABBIT.

mark.

Signed at Marten's Falls on the twenty-fifth day of July, 1905, by His Majesty's Commisisoners and the Chief and Headmen in the presence of the undersigned witnesses, after having been first interpreted and explained.

Witnesses :

THOMAS CLOUSTON RAE, C.T.,
Hudson Bay Co.
ALEX. GEORGE MEINDL, M.D.
SAMUEL ISERHOFF.

DUNCAN CAMPBELL SCOTT.
SAMUEL STEWART.
DANIEL GEORGE MACMARTIN.
his
WILLIAM x WHITEHEAD.
mark
his
WILLIAM x COASTER.
mark
his
DAVID x KNAPAYSWET.
mark
his
OSTASMAS x LONG TOM.
mark
his
WILLIAM x WEENJACK.
mark

Signed at Fort Albany on the third day of August, 1905, by His Majesty's Commissioners and the Chiefs and Headmen in the presence of the undersigned witnesses, after having been first interpreted and explained.

Witnesses :

THOMAS CLOUSTON RAE, C.T.,
Hudson Bay Co.
A. W. PATTERSON.
G. W. COCHRAN.
ALEX. GEORGE MEINDL, M.D.
JOSEPHA PATTERSON.
MINNIE COCKRAM.

DUNCAN CAMPBELL SCOTT.
SAMUEL STEWART.
DANIEL GEORGE MACMARTIN.
his
CHARLIE x STEPHEN.
mark
his
PATRICK x STEPHEN.
mark
his
DAVID GEO. x WYNNE.
mark
his
ANDREW x WESLEY.
mark
his
JACOB x TAHTAIL.
mark
his
JOHN x WESLEY.
mark
his
XAVIER x BIRD.
mark
his
PETER x SACKANEY.
mark
his
WM. x GOODWIN.
mark
his
SAML. x SCOTT.
mark

Signed at Moose Factory on the ninth day of August, 1905, by His Majesty's Commissioners and the Chiefs and Headmen in the presence of the undersigned witnesses, after having been first interpreted and explained.

Witnesses:	DUNCAN CAMPBELL SCOTT.
GEORGE MOOSONEE.	SAMUEL STEWART.
THOMAS CLOUSTON RAE, C.T.,	DANIEL GEORGE MACMARTIN.
Hudson Bay Co.	his
JOHN GEORGE MOWAT, H. B. Co.	SIMON SMALLBOY, x
THOMAS BIRD HOLLAND, B.A.	mark
JAMES PARKINSON.	his
	GEORGE TAPPAISE, x
	mark
	HENRY SAILOR—Signed in Cree syllabic.
	JOHN NAKOGEE “ “
	JOHN DICK “ “
	SIMON QUATCHEWAN “ “
	JOHN JEFFRIES “ “
	FRED MARK “ “
	his
	HENRY UTAPPE, x
	mark
	his
	SIMON CHEENA, x
	mark

Signed at New Post on the twenty-first day of August, 1905, by His Majesty's Commissioners and the Chiefs and Headmen in the presence of the undersigned witnesses, after having been first interpreted and explained.

Witnesses:	DUNCAN CAMPBELL SCOTT.
THOMAS CLOUSTON RAE, C.T.,	SAMUEL STEWART.
Hudson Bay Co.	DANIEL GEORGE MACMARTIN.
SYDNEY BLERKARNE BARRETT,	his
Hudson Bay Co.	ANGUS x WEENUSK.
JOSEPH LOUIS VANASSE.	mark
	his
	JOHN x LUKE.
	mark
	his
	WILLIAM x GULL.
	mark

This Agreement made on the third day of July, in the year of Our Lord, 1905, between

The Honourable Frank Oliver, Superintendent-General of Indian Affairs, on behalf of the Government of Canada

Of the one part:

And

The Honourable Francis Cochrane, Minister of Lands and Mines of the Province of Ontario, on behalf of the Government of Ontario

On the other part.

Whereas, His Most Gracious Majesty the King of Great Britain and Ireland is about to negotiate a treaty with the Ojibeway and other Indians, inhabitants of the territory within the limits hereinafter defined and described by their Chiefs and Headmen for the purpose of opening for settlement, immigration, trade, travel, mining and lumbering, and for such other purposes as to His Majesty may seem meet, a tract of country bounded and described as hereinafter mentioned, and of obtaining the consent thereto of His Indian subjects inhabiting the said tract, and of aranging with them for the cession of the Indian rights, titles and privileges to be ceded, released, surrendered and yielded up to His Majesty the King and His successors forever, so that there may be peace and good will between them and His Majesty's other subjects, and that His Indian people may know and be assured of what allowances they are to count upon and receive from His Majesty's bounty and benevolence, which said territory may be described and defined as follows, that is to say, all that portion or tract of land lying and being in the Province of Ontario, bounded on the south by the height of land and the northern boundaries of the territory ceded by the Robinson-Superior Treaty of 1850, and the Robinson-Huron Treaty of 1850, and bounded on the east and north by the boundaries of the said Province of Ontario as defined by law, and on the west by a part of the eastern boundary of the territory ceded by the Northwest Angle Treaty No. 3; the said land containing an area of ninety thousand square miles, more or less, said treaty to release and surrender also all Indian rights and privileges whatsoever of the said Indians to all or any other lands wherever situated in Ontario, Quebec, Manitoba, or the District of Keewatin, or in any other portion of the Dominion of Canada.

And whereas, by the agreement made the 16th day of April, 1894, entered into between the Government of the Dominion of Canada, represented by the Honourable T. Mayne Daly, and the Government of the Province of Ontario, represented by the Honourable John M. Gibson, in pursuance of the Statute of Canada passed in the fifty-fourth and fifty-fifth years of Her Majesty's reign, chaptered five and intituled, 'An Act for the settlement of certain questions between the Governments of Canada and Ontario respecting Indian lands,' and the Statute of Ontario passed in the fifty-fourth year of Her Majesty's reign, chaptered three, and intituled, 'An Act for the settlement of certain questions between the Governments of Canada and Ontario respecting Indian lands,' and by the sixth clause of the said agreement it is provided, 'That any future treaties with the Indians in respect of territory in Ontario to which they have not before the passing of the said statutes surrendered their claim aforesaid, shall be deemed to require the concurrence of the Government of Ontario,' and by the said intended treaty it is signified and declared that His Majesty show his satisfaction with the behaviour and good conduct of His Indian subjects, and in extinguishment of all their past claims through His Commissioners, will make to each Indian a present of eight dollars in cash, and will also next year and annually afterwards forever cause to be paid to each of the said Indians in cash, at suitable places and dates, of which the said Indians shall be duly notified, the sum of four dollars, and that unless there be some exceptional reason, such sums will be paid only to heads of families for those belonging thereto.

It is therefore agreed by and between the Governments of Canada and of Ontario as aforesaid, as follows:—

That subject to the provisions contained in the hereinbefore recited agreement of 16th April, 1894, and also the agreement made on 7th July,

1902, by counsel on behalf of the Governments of the Dominion and Ontario, intervening parties, upon the appeal to the Judicial Committee of the Privy Council in the suit of the Ontario Mining Company v. Seybold et al. (Ont. S.P., 1904, No. 93), a copy whereof is hereto attached; and the surrender of the Indian title within Ontario to the entire territory defined and described, duly obtained.

The Government of the Province of Ontario hereby gives consent and upon the following conditions concurs in the terms proposed to be entered into, made and agreed by the said treaty, in so far that the said Government of Ontario, on and after the payment to the Indians of the above mentioned present of eight dollars, and thereafter the payment annually of four dollars to each Indian, forever, as above specified, promises and agrees to pay the said sums to the Government of Canada, upon request when and as the same are paid to the Indians, upon proof, when required, of such payments—such payments to be free from any expenses at the cost of Ontario attendant upon distribution of the said sums of money.

And the Government of Ontario, subject to the conditions aforesaid, further concurs in the setting apart and location of reserves within any part of the said territory, as surrendered or intended to be surrendered, in area not greater than one square mile for each family of five, or in like proportion, at points to be chosen by the Commissioners negotiating the said treaty, one of the said Commissioners to be appointed by the Lieutenant-Governor of Ontario in Council, and the selection of the said reserves to be subject to the approval of the Lieutenant-Governor in Council;

And the Government of Ontario stipulates no part of the expense of survey and location of the said reserves to be at any time at the cost of the Government of Ontario;

And further, that no site suitable for the development of water power exceeding 500 horse-power shall be included within the boundaries of any reserve.

It is also agreed between the parties hereto that no part of the cost of negotiating the said treaty is to be borne by the Province of Ontario.

In witness whereof, these presents have been signed and sealed on behalf of the Government of Canada by the Honourable Frank Oliver, Superintendent-General of Indian Affairs, and on behalf of the Government of Ontario by the Honourable Francis Cochrane, Minister of Lands and Mines.

Signed, sealed and delivered by the Hon-
ourable Frank Oliver, in presence of
FRANK PEDLEY, and by the Honour-
able Francis Cochrane in the presence
of GEO. W. YATES.

FRANK OLIVER.
F. COCHRANE.

AGREEMENT between counsel on behalf of the Dominion and Ontario, intervening parties upon the appeal to the Judicial Committee of the Privy Council in Ontario Mining Company vs. Seybold et al.

As to all Treaty Indian reserves in Ontario (including those in the territory covered by the Northwest Angle Treaty, which are or shall be duly established pursuant to the statutory agreement of one thousand eight hundred and ninety-four), and which have been or shall be duly surrendered by the Indians to sell or lease for their benefit, Ontario agrees to confirm the titles heretofore made by the Dominion, and that the Dominion shall have full power and authority to sell or lease and convey title in fee simple or for any less estate.

The Dominion agrees to hold the proceeds of such lands when or so far as they have been converted into money upon the extinction of the Indian interest therein, subject to such rights of Ontario thereto as may exist by law.

As to the reserves in the territory covered by the Northwest Angle Treaty which may be duly established as aforesaid, Ontario agrees that the precious metals shall be considered to form part of the reserves and may be disposed of by the Dominion for the benefit of the Indians to the same extent and subject to the same undertaking as to the proceeds as heretofore agreed with regard to the lands in such reserves:

The question as to whether other reserves in Ontario include precious metals to depend upon the instruments and circumstances and law affecting each case respectively.

Nothing is hereby conceded by either party with regard to the constitutional or legal rights of the Dominion or Ontario as to the sale or title to Indian reserves or precious metals, or as to any of the contentions submitted by the cases of either Government herein, but it is intended that as a matter of policy, and convenience the reserves may be administered as hereinbefore agreed.

Nothing herein contained shall be considered as binding Ontario to confirm the titles heretofore made by the Dominion to portions of Reserve 38B already granted by Ontario as appearing in the proceedings.

(Sgd.) E. L. NEWCOMBE, *for the Dominion.*

(Sgd.) EDWARD BLAKE, *for Ontario.*

Dated 7th July, 1902.

PAY LIST FOR TREATY No. 9 FOR 1906.

Name of Band.	Number on Pay-list.					Amount Paid.
	Men.	Women.	Boys.	Girls.	Total.	
Osnaburgh	18	27	25	30	100	\$400 00
Fort Hope	12	16	11	18	57	420 00
Marten's Falls.....	6	6	6	8	26	104 00
English River	18	16	18	19	71	436 00
Fort Albany.....	27	26	24	28	105	452 00
Moose Factory.....	67	70	99	90	326	1,312 00
New Post	11	11	8	6	36	144 00
Abitibi	28	47	38	33	146	1,168 00
Matatchewan	13	23	18	25	79	632 00
Matagami	22	24	24	28	98	784 00
Flying Post	29	35	27	26	117	936 00
Chapleau Ojibeway	11	21	30	18	80	640 00
Moose Factory Crees at Chapleau Division.	12	16	19	17	64	512 00
New Brunswick House.....	29	31	37	37	134	1,072 00
Moose Factory Crees at Missanabie.....	14	15	15	18	62	496 00
Marten's Falls, Long Lake Division	23	26	40	46	135	1,080 00
Total	340	410	439	447	1,636	\$10,588 00

PAY LIST FOR TREATY No. 9 FOR 1907.

Name of Band.	Number on Pay-list.					Amount Paid.
	Men.	Women.	Boys.	Girls.	Total.	
Osnaburgh.....	16	26	20	26	88	\$368 00
Fort Hope.....	11	17	12	20	60	240 00
Marten's Falls	6	6	9	11	32	160 00
English River	18	14	18	18	68	276 00
Fort Albany.....	27	25	28	31	111	444 00
Moose Factory	65	72	98	91	326	1,332 00
New Post.....	11	11	8	7	37	148 00
Abitibi	28	42	32	32	134	564 00
Matatchewan	16	25	25	30	96	504 00
Matagami	20	22	26	26	94	328 00
Flying Post.....	27	35	22	22	106	412 00
Chapleau Ojibeway.....	10	19	30	17	76	304 00
Moose Factory Crees at Chapleau Division.	13	17	23	19	72	340 00
New Brunswick House	29	35	38	34	136	544 00
Moose Factory Crees at Missanabie.....	13	16	15	21	65	252 00
Marten's Falls, Long Lake Division	24	26	39	48	137	548 00
Total	334	408	443	453	1,638	\$6,764 00

PAY LIST FOR TREATY No. 9 FOR 1908.

Name of Band.	Number on Pay-list.					Amount Paid.
	Men.	Women.	Boys.	Girls.	Total.	
Osnaburgh	26	35	28	31	120	\$584 00
Abitibi	27	31	30	32	120	584 00
Matatchewan	14	24	27	31	96	384 00
Fort Hope.....	10	16	13	22	61	244 00
Fort Albany.....	25	26	30	33	114	456 00
Moose Factory.....	65	67	87	86	305	1,248 00
New Post.....	11	9	8	7	35	140 00
Marten's Falls	4	5	9	6	24	96 00
English River	16	14	19	16	65	260 00
Missinabie	12	18	16	20	66	272 00
Matagami	17	24	24	23	88	388 00
Ojibeways (Flying Post).....	26	32	22	25	105	432 00
Chapleau Ojibeways	9	17	27	12	65	260 00
Moose Factory Crees at Chapleau Division.	12	16	21	21	70	340 00
New Brunswick House	29	31	34	34	128	512 00
Marten's Falls, Long Lake Division.....	21	28	41	50	140	568 00
Arrears by Department.....						
Total	324	393	436	449	1,602	\$6,768 00

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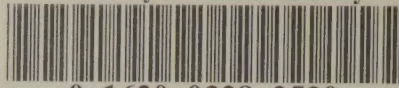
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